

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA**

UNITED STATES OF AMERICA

v.

Case No. 1:06-cr-00020-IMK-8

DEWAYNE ANDERSON

**SUGGESTION OF APPROPRIATE FURTHER PROCEEDINGS
IN LIGHT OF DECISION OF THE UNITED STATES COURT OF APPEALS**

Now comes Dewayne Anderson, by Martin P. Sheehan, Esq. and SHEEHAN & NUGENT, P.L.L.C., and suggests, in light of the decision of the United States Court of Appeals for the Fourth Circuit reversing the conviction of the Dewayne Anderson for Conspiracy to Distribute Controlled Substances, and the retention by Dewayne Anderson of new counsel,

- 1) that the Court order the pre-sentence report to be updated;
- 2) that the Court establish a period for the defendant's new counsel to file objections to the pre-sentence report, and/or the updated pre-sentence report in light of the reversal of the conviction on Count 1,
- 3) that after preparation of an update to the pre-sentence report, and the establishment of a period to file objections and responses, the Court schedule a hearing on any such objections and schedule the defendant to be re-sentenced on Count 13 only.

In support of this motion, the defendant asserts, upon information and belief, that the finding of the United States Court of Appeals that "the government failed to introduce any evidence at trial linking either Anderson or Edwards to the crack conspiracy" would tend to undermine any contrary conclusion in the calculation of relevant conduct. It is the view of the defendant that a finding of his responsibility for crack cocaine has had a material impact on his

sentence on Count 13 that needs to be revisited.

WHEREFORE the defendant requests that the Court establish an orderly process for re-sentencing including the suggestions herein.

RESPECTFULLY SUBMITTED

/s/ *Martin P. Sheehan*

Martin P. Sheehan, Esquire
WV Bar No. 4812

SHEEHAN & NUGENT, PLLC
41 Fifteenth Street
Wheeling WV 26003
(304) 232-1064
(304) 232-1066 FAX

CERTIFICATE OF SERVICE

I, MARTIN P. SHEEHAN, do certify that service of the foregoing Notice of Appearance was served upon the following by mailing a true copy thereof, by United States Mail, postage prepaid, this 10th day of July, 2008.

Scott A. Shough, Esq.
211 Adam St.
Security Bank Bldg.
Fairmont, WV 26554

Zelda E Wesley, AUSA
United States Attorney's Office
320 W. Pike St., Suite 300
Clarksburg, WV 26302

/s/ *Martin P. Sheehan*

Martin P. Sheehan
41 Fifteenth Street
Wheeling, WV 26003-2941